

## SUMMARY OF RESPONSE

### *Priority*

1. The Examiner states: "Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

This application does not repeat a substantial portion of prior Application No. 09/829801, filed 4/10/01. Should applicant desire to obtain the benefit of the filing date of the prior application attention is directed to 35 U.S.C. 120 and 37 CFR 1.78."

### *Information Disclosure Statement*

2. The Examiner states: "The mentioning of references in the specification (page 6/27) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form P10-892, they have not been considered."

### *Drawings*

3. The Examiner states: "The drawings are objected to because in Fig. 6, the element labeled "601" should be labeled "602" and the element labeled "602" should be labeled "601". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from

the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance."

***Claim Rejections - 35 USC § 112***

4. The Examiner states: "Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, there is no antecedent basis for "the hydraulic power" and "the lid".

The scope of claim 4 is not clear. Initially, a "lid section" is said to be recited. Later in the claim, a pivoting hinged edge "coupling the lid section to the underwater enclosure" is recited, which positively brings the underwater enclosure into the claim. Consequently, it is unclear if the lid section is being claimed in combination with the underwater enclosure or if only the lid section is being claimed. The claim will be treated as if only the lid section is being recited. Also in claim 4, "a side edge", line 6, suggest that a side edge is being introduced. However, side edges are recited earlier in the claim. If this is a reference to this earlier recitation of "side edges", language such as "one of said side edges" should be used."

***Claim Rejections - 35 USC § 102***

5. The Examiner states: "Claims 4 and 5 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Conterno.

The panels have lips 15,16, defining an inverted pan, coupling mechanism 13, and torsion structural members and buoyancy "tanks" between walls 14. The term "pivoting edge" establishes no structure that requires pivoting. Only a structural "pan" has been claimed, to which a hinge could be attached. Conterno meets the structure of the recited "pan".

*Allowable Subject Matter*

6. The Examiner states: "Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action."
7. The Examiner states: "Claim 2, 3 and 6 are allowed."

*Response To Arguments*

8. The Examiner states: "Applicant's arguments have been fully considered but they are not persuasive. The listing of prior art in the specification is not a proper IDS, as discussed above. A form 1449 must be submitted to ensure consideration of these references. The priority claim is still not in conformance with PTO requirements. Please carefully note the objection above. Regarding the art rejection, see the above comments concerning the interpretation of Conterno. Claim 4 is interpreted as reciting merely a "pan section". A hinge has not been recited. Only a "hinged edged" which suggests an edge that is capable of being hinged. The partition walls 14 define torsion structural members and buoyancy tanks therebetween."

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